

Appl. No. 10/521,955
Docket No. EBA-0022

REMARKS / ARGUMENTS

At the outset, Applicant notes that the Examiner references only Claims 1-10, when the record clearly shows that Claims 1-11 are pending, Claims 9-11 having been added as "new" in Applicant's Amendment dated June 14, 2007. In view of Claim 11 apparently not having been examined, Applicant respectfully requests a non-final action in response hereto so that Applicant is afforded an appropriate opportunity to respond to a rejection of Claim 11 if Claim 11 is not found to be allowable.

Status of Claims

Claims 1-11 are pending in the application. Claims 1-10 stand rejected (Claim 11 apparently not having been examined). Applicant provides herein clarifying remarks regarding the allowability of Claims 1-10 (actually Claims 1-11), and adds new Claim 12, leaving Claims 1-12 for consideration upon entry of the present Amendment.

Applicant respectfully submits that the rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a) have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

Rejections Under 35 U.S.C. §102(b)

Claim 1 stands rejected under 35 U.S.C. §102(b) as being anticipated by Muller (U.S. Patent No. 4,632,032, hereinafter Muller).

Applicant traverses this rejection for the following reasons.

Applicant respectfully submits that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, *in a single prior art reference.*" *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). Moreover, "[t]he identical invention must be shown in as complete detail as is contained in the *** claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Furthermore, the single source must disclose all of the claimed elements

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"arranged as in the claim." Structural Rubber Prods. Co. v. Park Rubber Co., 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984). Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference. Titanium Metals Corp. v. Banner, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985).

Claim 1 recites, inter alia:

"...an electrical initiation element having signal input nodes thereto;

protective circuitry connected across the signal input nodes, the protective circuitry comprising *a clamping portion responsive to input signals at the input nodes* to divert from the initiation element at least a portion of such input signals, the clamping portion being responsive to a release signal to permit the input signal to pass to the initiation element upon receipt of such release signal; and

a timer portion connected to the clamping portion and to the input nodes, and being *responsive to such input signals, for issuing a release signal to the clamping portion* after passage of a clamping interval after the receipt of the input signal."

Here, Applicant is not only claiming an initiation element having input nodes, but is also claiming a clamping portion that is responsive to the input signals at the input nodes (specifically at the input nodes), and a timer portion connected to the input nodes (specifically to the input nodes) where the timer portion is responsive to the input signals (at the input nodes) for issuing the release signal to the clamping portion (specifically to the clamping portion).

I: Muller fails to disclose the claimed clamping portion responsive to input signals at the input nodes

In alleging anticipation, the Examiner alleges that Muller discloses "an electrical initiation element [presumably element 6] having signal input nodes thereto (3, 4, upper node of resistor 20, ground); protective circuitry connected across the signal input nodes (21 and 14), the protective circuitry comprising a clamping portion (14) responsive to input signal at the input nodes (upper node of resistor 20) to divert from the initiation element at least a portion of such input signals..."

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Here, it is not entirely clear what the Examiner is referring to in Muller as being the claimed "initiation element" or the claimed "input nodes", as the Examiner does not specifically reference an element in Muller for the "initiation element", and refers to four locations in the Figure of Muller, points 3, 4, upper node of resistor 20, and ground, for the "input nodes". In view of the structural limitations claimed in the instant invention, Applicant submits that absent a specific reference in Muller to an "initiation element", coupled with a general reference to the noted four points in Muller as the "input nodes", is wholly inadequate for establishing an unambiguous prima facie case of anticipation.

One interpretation of the Examiner's allegation would be to consider the upper node of resistor 20 and ground to be the "input nodes". If this is the case, then Applicant submits that Muller does not disclose (nor teach) the clamping portion (14) being *responsive to input signals at the input nodes*, as clamping portion (14) is responsive to an input signal from voltage-threshold circuit (15), and does not "see" the input nodes (upper node of resistor 20, ground) alleged by the Examiner. If this is not the case, then Applicant submits that Muller is deficient for other reasons owing to the fact that initiation element (6) has only one disclosed input node, and owing to the Examiner's vague reference to the allegedly disclosed "input nodes".

Regarding the Examiner's vagueness, if the Examiner is calling input signals (3, 4) the location of the signal input nodes, then clamping portion (14) is not responsive to the input signals (3, 4) *at those input nodes*, as the clamping portion (14) is disclosed to be responsive to a signal from voltage threshold circuit (15) (see Fig. 1 and col. 3, lines 42-47). Furthermore, calling input signals (3, 4) the signal input nodes is wholly inconsistent with the claimed invention, which specifically calls for *the initiation element (Muller element 6) to have the signal input nodes*, and not the logic control circuit (2), the blocking circuit section (13), or the switching element (5), to have the signal input nodes. In summary, the signal input nodes of the claimed invention are *at the initiation element* (see Fig. 1 and related text of the application as originally filed, paragraph [0015] for example), which is substantially different from the disclosure and teaching in Muller.

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II: Muller fails to disclose the claimed timer portion *responsive to such input signals (at the input nodes)*

In addition, the Examiner alleges that Muller discloses "a timer portion (10, 9, 20, 19) connected to the clamping portion (14) (through diode 16) and to the input node, *and being responsive to such input signals*, for issuing a release signal to the clamping portion (14)...".

To be consistent with the Examiner's position set forth above, it appears that the Examiner is saying that the timer portion (10, 9, 20, 19) is *responsive to the input signals at the input nodes* identified as (3, 4, upper node of resistor 20, ground). If this is the case, then Applicant respectfully disagrees, as the timer portion (10, 9) is responsive to power source (8), and the timer portion (20, 19) is responsive to input signals (3), to delay the threshold circuit (15) (see col. 3, lines 60-65). And, since the timer portion (20, 19) is upstream of the initiation element (6) with various control circuitry inbetween, timer portion (20, 19) cannot "see" the input nodes of initiation element (6) and therefore cannot be responsive to the input signals *at the input nodes of the initiation element (6)*.

For at least the foregoing reasons, Applicant submits that Muller is wholly inadequate in disclosing each and every element of the claimed invention arranged as claimed, and therefore cannot be used to establish a prima facie case of anticipation. As such, Applicant respectfully requests that the Examiner reconsider and withdraw all rejections under 35 U.S.C. §102(b), which Applicant considers to be traversed.

Dependent claims inherit all of the limitations of the parent claim. As such, Applicant submits that the dependent claims are allowable at least for the reason that they depend from an allowable claim.

Rejections Under 35 U.S.C. §103(a)

Claims 2-5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Muller in view of Pathe et al. (U.S. Patent No. 6,173,651, hereinafter Pathe).

Claims 6-8 and 10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Muller in view of Aikou et al. (U.S. Patent No. 4,712,477, hereinafter Aikou).

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Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Muller in view of Li et al. (U.S. Patent No. 5,689,133, hereinafter, Li).

Applicant traverses these rejections for the following reasons.

Applicant respectfully submits that the obviousness rejection based on the References is improper as the References fail to teach or suggest each and every element of the instant invention in such a manner as to perform as the claimed invention performs. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

In view of Pathe, Aikou and Li not being used against parent Claim 1, Applicant submits that dependent Claims 2-10 (actually dependent Claims 2-11) are allowable at least for the reason that they depend from an allowable parent claim.

In addition, Applicant notes that Pathe is applied primarily for its teaching of a time delay and timer circuit, that Aikou is applied primarily for its teaching of a timer circuit and an integrated circuit therefore, and that Li is applied primarily for its teaching of an over-voltage protection circuit, which Applicant submits, either singularly or in combination, fail to cure the deficiencies of Muller set forth above.

As such, Applicant submits that the References fail to teach or suggest each and every element of the claimed invention and are therefore wholly inadequate in their teaching of the claimed invention as a whole, fail to motivate one skilled in the art to do what the patent Applicant has done, fail to offer any reasonable expectation of success in combining the References to perform as the claimed invention performs, and discloses a substantially different invention from the claimed invention, and therefore cannot properly be used to establish a prima facie case of obviousness. Accordingly, Applicant respectfully requests reconsideration and withdrawal of all rejections under 35 U.S.C. §103(a), which Applicant considers to be traversed.

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In light of the forgoing, Applicant respectfully submits that the Examiner's rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a) have been traversed, and respectfully requests that the Examiner reconsider and withdraw these rejections.

Regarding New Claim 12

Applicant has added new Claim 12 to capture originally disclosed but unclaimed subject matter. No new matter has been added as antecedent support can be found in the application as originally filed, such as at Figure 1 (illustrating the clamping portion being electrically connected in parallel with the input nodes of the initiation element).

In comparing the new Claim 12 to the prior art of record, Applicant finds the references to be deficient in disclosing or teaching the claimed features either arranged as claimed or arranged so as to perform as the claimed invention performs. As such, Applicant submits that the new Claim 12 should be deemed allowable and respectfully requests notice thereof.

If a communication with Applicant's Attorneys would assist in advancing this case to allowance, the Examiner is cordially invited to contact the undersigned so that any such issues may be promptly resolved.

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 06-1130.

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In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,

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